Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 460 (Senator Conway)(By Request - Baltimore City Administration)

Budget and Taxation Appropriations

Education - Debt Service for Transferred Schools - County Reimbursement Grace Period

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This bill delays for two years the date by which a county government must reimburse the State for outstanding debt service on a school building that is transferred to the county in accordance with State law. After the two-year period, the county government, including Baltimore City, must reimburse the State in the amount that the county would have been required to pay when the building was transferred.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: Foregone revenues for the Annuity Bond Fund beginning in FY 2018 to the extent that local school systems transfer surplus real property with outstanding State debt to their respective county governments and the county governments delay repayment of the outstanding debt service. A reliable estimate of the foregone revenue is not available, as explained below, but likely does not exceed $1.0 million in any of the five fiscal years covered by this analysis. No effect on expenditures.

Local Effect: Although the bill affects all 24 counties, the primary effect of the bill in the short term is that Baltimore City can defer, for two years, its repayment of outstanding State debt for any of the school buildings it expects to receive from the Baltimore City Public Schools (BCPS) over the next five years. A reliable estimate of the payments that will be deferred is not available, as discussed below.

Small Business Effect: None.

Analysis

Current Law: If a local school board finds, with the approval of the State Superintendent, that any land, school site, or building is no longer needed for school purposes, it must inform the county commissioners or county council of that determination. Within 30 days of receiving the notice from the local school board, the county government must notify the local school board either (1) of the need to transfer the land, site, or building to the county if it is an integral part of an existing economic development plan that will significantly benefit the county or (2) that the county government has no existing plans for the land, site, or building. If the county government has no plans for the property, or does not provide notification within 30 days, the local school board must make the property available to any charter school in the district, under terms established by the local school board. If no charter schools in the county want the property, the local school board must transfer the property to the county commissioners or county council, which can then use, sell, lease, or otherwise dispose of the property, except by gift.

In general, the State requires counties to reimburse it for any outstanding debt service for schools that:

- were built at least in part using State debt;
- were initially constructed or substantially altered by additions, alterations, or renovations valued at more than $100,000 and completed after February 1971;
- are no longer used for school purposes;
- have had their titles transferred to the county government;
- are being used for local government purposes other than public education; and
- have outstanding debt that exceeds $5,000.

Under specified circumstances, counties do not need to reimburse the State for any outstanding debt service for schools initially constructed before February 1971.

Background: Chapter 647 of 2013 authorized the Maryland Stadium Authority (MSA) to sell up to $1.1 billion in bonds to finance the construction or renovation of 23 to 28 public schools in Baltimore City by 2020. Financing for the resulting 21st Century Schools initiative is shared among the State, Baltimore City, and BCPS, with each contributing $20.0 million annually to cover the debt service and operating expenses for the initiative until the bonds are paid off. The State contribution comes from State Lottery proceeds.

Under a memorandum of understanding (MOU) among MSA, the Interagency Committee on School Construction, Baltimore City, and BCPS, 26 school buildings in Baltimore City were required to be closed/surplussed as part of the 21st Century Schools initiative. The closures are designed to meet building occupancy targets for BCPS that are part of the

MOU. Since then, the list of closures has undergone several changes, with buildings added and removed from the list, and some closures delayed or accelerated depending on a variety of factors.

In 2013, when Chapter 647 was enacted, the State Treasurer's Office (STO) calculated the outstanding debt on each of the buildings slated for closure and subsequent surplus to the city. At the time, it calculated $13.8 million in outstanding debt; based on some of the debt expiring over time, it estimates that the total outstanding debt would be $6.5 million on June 30, 2017, which reflects buildings that have already been surplussed. However, STO advises that it has not updated its calculations to reflect numerous changes to the list since it originally calculated the outstanding debt on the original 26 buildings listed. The list was updated as recently as January 2017, with two buildings removed (Edmondson Westside Skill Center and Joseph Briscoe) and two buildings added (Chinquapin and Guilford). **Exhibit 1** includes the most recent list of schools and their expected or actual surplus date, which occurs after the building is formally closed.

Exhibit 1
BCPS Buildings Surplussed or Planned to Be Surplussed

Building	Surplus Date	Building	Surplus Date
Garrison Middle	2023	Independence Charter	2015
Laurence G. Paquin	2013	Southeast Building	2019
Waverly Middle	2014	Langston Hughes	2015
Samuel B. Morse	2017	Northwestern High	2019
Thurgood Marshall	2023	William Pinderhughes	2015
Patapsco	2018	William C. March	2024
Alexander Hamilton	2020	Dr. Carter G. Woodson	2018
Claremont	2019	Lake Clifton	2019
Rognell Heights	2018	Dr. Rayner Browne	2015
Lois T. Murray	2019	West Baltimore Building	2024
Sarah M. Roach	Undetermined	Chinquapin	2021
Sharp Leadenhall	2020	Guilford	2019
Westside Elementary	2018	Corps Building	2014

Source: Baltimore City Public Schools

State Revenues: To the extent that local school systems transfer property to their respective county governments, the State likely experiences foregone revenues to the Annuity Bond Fund, which is the special fund from which the State makes debt service payments, due to counties delaying their repayments for two years. As discussed above, STO does not have an updated estimate of the outstanding debt on schools planned to be surplussed to Baltimore City. However, based on the original estimate, the foregone revenue in any given year is not expected to exceed $1.0 million in most years, if not every year through fiscal 2022. For schools surplussed in fiscal 2018 and 2019, Baltimore City makes debt repayments in fiscal 2020 and 2021, respectively, under the bill, so the bulk of the foregone revenue occurs in fiscal 2018 and 2019.

STO advises that there is a very remote possibility that the State would have to defease bonds within 90 days of a property transfer to a county government if the repayment is not made *and* the county transfers the property to private use in order to remain in compliance with federal tax laws and regulations. Defeasement relates to methods by which an outstanding bond can be made void, both legally and financially. However, STO does not expect that circumstances will give rise to the need to defease any bonds under this bill.

Local Fiscal Effect: As discussed above, Baltimore City can delay anticipated repayments of outstanding debt to the State for two years under the bill. Besides Baltimore City, several counties indicate that very few if any school buildings have been transferred to the county government in recent years and, thus, do not anticipate that the bill has an effect on them. To the extent that any county receives surplussed educational buildings with outstanding State debt during the five-year period covered by this analysis, it can defer its debt repayment for two years. This amounts to an interest-free loan from the State to the county, as the State continues to pay debt service on the outstanding debt.

Additional Information

Prior Introductions: None.

Cross File: HB 441 (Delegate Anderson)(By Request - Baltimore City Administration) and Delegate McIntosh - Appropriations.

Information Source(s): Baltimore City; Harford, Montgomery, and Talbot counties; Maryland Municipal League; Maryland State Treasurer's Office; Maryland State Department of Education; Public School Construction Program; Board of Public Works; Department of Legislative Services

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